



February 22, 2002

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## ENGROSSED HOUSE BILL No. 1083

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DIGEST OF HB 1083 (Updated February 20, 2002 2:11 PM - DI 105)

**Citations Affected:** IC 33-4; IC 33-5; noncode.

**Synopsis:** Adds an additional judge to the Vigo superior court. Grants the Shelby circuit court concurrent jurisdiction with the Shelby superior court #1 to hear juvenile cases. Reauthorizes the Allen County alternative dispute resolution (ADR) pilot project for parties contemplating divorce. Provides that the ADR project may include nonbinding arbitration. Permits a senior judge to serve as a domestic relations mediator.

**Effective:** July 1, 2002; January 1, 2003.

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### Kersey, Ayres, Tincher

(SENATE SPONSORS — BRAY, BLADE)

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January 8, 2002, read first time and referred to Committee on Courts and Criminal Code.  
January 28, 2002, amended, reported — Do Pass.  
January 31, 2002, read second time, amended, ordered engrossed.  
February 1, 2002, engrossed.  
February 5, 2002, read third time, passed. Yeas 91, nays 0.

#### SENATE ACTION

February 11, 2002, read first time and referred to Committee on Judiciary.  
February 21, 2002, amended, reported favorably — Do Pass.

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EH 1083—LS 6718/DI 105+



February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## ENGROSSED HOUSE BILL No. 1083

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 33-4-6-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The Shelby circuit court has  
3 concurrent, coordinate, and coextensive jurisdiction with the Shelby  
4 superior court in the following:

- 5 (1) All civil actions and proceedings, at law or in equity.
- 6 (2) Divorce and special statutory proceedings and actions.
- 7 (3) Probate matters and proceedings.
- 8 (4) Actions by and against administrators, executors, guardians,  
9 trustees, and other fiduciaries and personal representatives,  
10 including will contests, actions to resist probate of wills, and  
11 claims against estates.
- 12 (5) Criminal proceedings, actions and matters.

13 (b) The Shelby circuit court has concurrent, coordinate, and  
14 coextensive jurisdiction with the Shelby superior court in all actions  
15 and proceedings, at law or in equity, whether criminal, civil, divorce,  
16 or other statutory matters, that are venued from other counties and from  
17 any courts in other counties in Indiana.

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(c) The Shelby circuit court ~~does not have~~ **has concurrent, coordinate, and coextensive** jurisdiction to file, hear, and determine juvenile proceedings or actions or other matters cognizable in the juvenile courts in Indiana. All juvenile jurisdiction is vested exclusively in the Shelby superior court. **with Shelby superior court No. 1 in juvenile matters and proceedings.**

(d) The Shelby circuit court has concurrent, coordinate, and coextensive jurisdiction with the superior court of the county in all civil, criminal, and statutory actions and proceedings appealed from the board of commissioners, and any other board, inferior court, commission, agency, or officer in the county.

(e) In the exercise of its criminal jurisdiction, the circuit court may issue search warrants and warrants for arrest and any other legal process and find and determine all matters and facts necessary to the validity of warrants or other process under the Constitution of the United States, the Constitution of the State of Indiana, and the laws of this state.

(f) The circuit court has concurrent and coextensive jurisdiction with the superior court in any and all other matters, proceedings, acts, powers, and duties that are proper to be filed, tried, and determined in circuit courts and superior courts of general jurisdiction and are not specifically mentioned in this section.

SECTION 2. IC 33-4-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. A senior judge:

(1) exercises the jurisdiction granted to the court served by the senior judge;

(2) **may serve as a domestic relations mediator, subject to the code of judicial conduct;**

(3) serves at the pleasure of the supreme court; and

(3) (4) serves in accordance with rules adopted by the supreme court under IC 33-2-1-8.

SECTION 3. IC 33-5-39-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) The courts have the same jurisdiction as the Shelby circuit court, except that **only** Shelby superior court No. 1 has ~~exclusive juvenile jurisdiction in the county.~~ **concurrent, coordinate, and coextensive jurisdiction with the Shelby circuit court in juvenile matters and proceedings.**

(b) Shelby superior court No. 2 has a standard small claims and misdemeanor division.

SECTION 4. IC 33-5-44.1-1, AS AMENDED BY P.L.45-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. There is hereby established a superior



1 court in Vigo County, Indiana, which court shall consist of ~~four (4)~~ **five**  
 2 **(5)** judges who shall hold their office for six (6) years if they behave  
 3 well and until their successors have been elected and qualified. In  
 4 addition to the ~~four (4)~~ **five (5)** judges, the judge of the Vigo circuit  
 5 court may sit as a judge of said Vigo superior court as provided in this  
 6 chapter.

7 SECTION 5. P.L.107-2000, SECTION 2, IS AMENDED TO READ  
 8 AS FOLLOWS [EFFECTIVE JULY 1, 2002]: SECTION 2. (a) This  
 9 SECTION applies to the circuit and superior courts of a county having  
 10 a population of more than three hundred thousand (300,000) but less  
 11 than four hundred thousand (400,000) in which dissolution of marriage  
 12 actions are filed.

13 (b) Notwithstanding IC 33-19-5-4, if a county meets the  
 14 requirements of this SECTION, the clerk of the court shall collect from  
 15 the party filing a **petition for legal separation, paternity, or**  
 16 dissolution of marriage action under IC 31 after December 31, 1997,  
 17 a civil costs fee of one hundred ~~twenty~~ **twenty-four** dollars (~~\$120~~).  
 18 **(\$124)**. Within thirty (30) days after the clerk collects a fee, the clerk  
 19 shall forward to the county auditor the difference between the fees  
 20 collected under this subsection and the fees that would have been  
 21 collected under IC 33-19-5-4. The county auditor shall deposit the fees  
 22 forwarded by the clerk under this subsection into the alternative dispute  
 23 resolution fund of the court for which the fees were collected.

24 (c) There is established an alternative dispute resolution fund for the  
 25 circuit court and an alternative dispute resolution fund for the superior  
 26 court. The exclusive source of money for each fund shall be the fees  
 27 collected under subsection (b) for the circuit or superior court,  
 28 respectively. The funds shall be used to foster **domestic relations**  
 29 alternative dispute resolution, including mediation, reconciliation,  
 30 **nonbinding arbitration**, and parental counseling. Litigants referred by  
 31 the court to services covered by the fund shall be required to make a  
 32 copayment for the services in an amount determined by the court. The  
 33 funds shall be administered by the circuit or superior court,  
 34 respectively. Money in each fund at the end of a fiscal year does not  
 35 revert to the county general fund, but remains in the fund for the uses  
 36 specified in this subsection.

37 (d) A county desiring to participate in the program under this  
 38 SECTION must ~~submit an initial plan to the Indiana judicial~~  
 39 ~~conference not later than September 30, 1997. The plan must include~~  
 40 ~~information concerning how the county proposes to carry out the~~  
 41 ~~purposes of the alternative dispute resolution fund as set out in~~  
 42 ~~subsection (c). The judicial conference shall determine from the plan~~



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submitted under this subsection whether to approve the county's participation in the program. **operate its program in accordance with a plan submitted to the judicial conference.** The county may amend the plan submitted under this subsection at any time with the approval of the judicial conference. The judicial conference may request such additional information from the county as necessary. ~~to assist in a determination under this subsection.~~

(e) A county that participates in the program under this SECTION shall submit a report to the Indiana judicial conference not later than ~~December 31, 1999;~~ **December 31 of each year,** summarizing the results of the program. ~~through 1999. The county shall submit a final report to the Indiana judicial conference not later than December 31, 2001.~~

~~(f) This SECTION expires July 1, 2002.~~

SECTION 6. [EFFECTIVE JULY 1, 2002] (a) **The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge added to the Vigo superior court by IC 33-5-44.1-1, as amended by this act.**

(b) **The term of the initial judge appointed under subsection (a) begins January 1, 2003, and ends December 31, 2004.**

(c) **The initial election of the judge of the Vigo superior court added by IC 33-5-44.1-1, as amended by this act, is the general election on November 2, 2004. The term of the initially elected judge begins January 1, 2005.**

(d) **This SECTION expires January 2, 2005.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1083, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "JULY 1, 2002]:" and insert "JANUARY 1, 2003]:".

and when so amended that said bill do pass.

(Reference is to HB 1083 as introduced.)

DVORAK, Chair

Committee Vote: yeas 12, nays 0.

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EH 1083—LS 6718/DI 105+



## HOUSE MOTION

Mr. Speaker: I move that House Bill 1083 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-4-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The Shelby circuit court has concurrent, coordinate, and coextensive jurisdiction with the Shelby superior court in the following:

- (1) All civil actions and proceedings, at law or in equity.
- (2) Divorce and special statutory proceedings and actions.
- (3) Probate matters and proceedings.
- (4) Actions by and against administrators, executors, guardians, trustees, and other fiduciaries and personal representatives, including will contests, actions to resist probate of wills, and claims against estates.
- (5) Criminal proceedings, actions and matters.

(b) The Shelby circuit court has concurrent, coordinate, and coextensive jurisdiction with the Shelby superior court in all actions and proceedings, at law or in equity, whether criminal, civil, divorce, or other statutory matters, that are venued from other counties and from any courts in other counties in Indiana.

(c) The Shelby circuit court ~~does not have~~ **has concurrent, coordinate, and coextensive** jurisdiction ~~to file, hear, and determine juvenile proceedings or actions or other matters cognizable in the juvenile courts in Indiana. All juvenile jurisdiction is vested exclusively in the Shelby superior court.~~ **with Shelby superior court No. 1 in juvenile matters and proceedings.**

(d) The Shelby circuit court has concurrent, coordinate, and coextensive jurisdiction with the superior court of the county in all civil, criminal, and statutory actions and proceedings appealed from the board of commissioners, and any other board, inferior court, commission, agency, or officer in the county.

(e) In the exercise of its criminal jurisdiction, the circuit court may issue search warrants and warrants for arrest and any other legal process and find and determine all matters and facts necessary to the validity of warrants or other process under the Constitution of the United States, the Constitution of the State of Indiana, and the laws of this state.

(f) The circuit court has concurrent and coextensive jurisdiction with the superior court in any and all other matters, proceedings, acts, powers, and duties that are proper to be filed, tried, and determined in

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circuit courts and superior courts of general jurisdiction and are not specifically mentioned in this section.

SECTION 2. IC 33-5-39-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) The courts have the same jurisdiction as the Shelby circuit court, except that **only** Shelby superior court No. 1 has ~~exclusive juvenile jurisdiction in the county.~~ **concurrent, coordinate, and coextensive jurisdiction with the Shelby circuit court in juvenile matters and proceedings.**

(b) Shelby superior court No. 2 has a standard small claims and misdemeanor division."

Renumber all SECTIONS consecutively.

(Reference is to HB 1083 as printed January 29, 2002.)

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 1083, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 22 and 23, begin a new paragraph and insert:  
"SECTION 2. IC 33-4-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. A senior judge:

- (1) exercises the jurisdiction granted to the court served by the senior judge;
- (2) **may serve as a domestic relations mediator, subject to the code of judicial conduct;**
- (3) serves at the pleasure of the supreme court; and
- (4) serves in accordance with rules adopted by the supreme court under IC 33-2-1-8."

Page 2, between lines 39 and 40, begin a new paragraph and insert:  
"SECTION 4. P.L.107-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: SECTION 2. (a) This SECTION applies to the circuit and superior courts of a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) in which dissolution of marriage actions are filed.

(b) Notwithstanding IC 33-19-5-4, if a county meets the requirements of this SECTION, the clerk of the court shall collect from the party filing a **petition for legal separation, paternity, or** dissolution of marriage action under IC 31 after December 31, 1997, a civil costs fee of one hundred ~~twenty~~ **twenty-four** dollars (~~\$120~~). **(\$124)**. Within thirty (30) days after the clerk collects a fee, the clerk shall forward to the county auditor the difference between the fees collected under this subsection and the fees that would have been collected under IC 33-19-5-4. The county auditor shall deposit the fees forwarded by the clerk under this subsection into the alternative dispute resolution fund of the court for which the fees were collected.

(c) There is established an alternative dispute resolution fund for the circuit court and an alternative dispute resolution fund for the superior court. The exclusive source of money for each fund shall be the fees collected under subsection (b) for the circuit or superior court, respectively. The funds shall be used to foster **domestic relations** alternative dispute resolution, including mediation, reconciliation, **nonbinding arbitration**, and parental counseling. Litigants referred by the court to services covered by the fund shall be required to make a copayment for the services in an amount determined by the court. The

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funds shall be administered by the circuit or superior court, respectively. Money in each fund at the end of a fiscal year does not revert to the county general fund, but remains in the fund for the uses specified in this subsection.

(d) A county desiring to participate in the program under this SECTION must ~~submit an initial plan to the Indiana judicial conference not later than September 30, 1997.~~ The plan must include information concerning how the county proposes to carry out the purposes of the alternative dispute resolution fund as set out in subsection (c). The judicial conference shall determine from the plan submitted under this subsection whether to approve the county's participation in the program. **operate its program in accordance with a plan submitted to the judicial conference.** The county may amend the plan ~~submitted under this subsection~~ at any time with the approval of the judicial conference. The judicial conference may request ~~such~~ additional information from the county as necessary. ~~to assist in a determination under this subsection.~~

(e) A county that participates in the program under this SECTION shall submit a report to the Indiana judicial conference not later than ~~December 31, 1999;~~ **December 31 of each year**, summarizing the results of the program. ~~through 1999. The county shall submit a final report to the Indiana judicial conference not later than December 31, 2001.~~

~~(f) This SECTION expires July 1, 2002."~~

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1083 as reprinted February 1, 2002.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

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